

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jun 23, 2020**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MONICA PESINA (01) and  
NICHOLAS SEAN CARTER (02),

Defendants.

No. 4:19-CR-06063-SMJ-01  
4:19-CR-06063-SMJ-02

**ORDER GRANTING DEFENDANT  
CARTER'S MOTION TO  
CONTINUE TRIAL DATE AND  
PRE-TRIAL CONFERENCE AND  
RESET DEADLINES**

**AMENDED<sup>1</sup> CASE  
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Nicholas Sean Carter's (02) Motion to Continue Trial Date and Pre-Trial Conference and Reset Deadlines, ECF No. 108. Defense counsel Nicholas Marchi requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. Defense counsel needs additional time to interview witnesses and prepare for trial and to address issues raised by the COVID-19 pandemic facing the community.

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<sup>1</sup> This Order amends and supersedes in part the Court's November 12, 2019 Case Management Order, ECF No. 41.

1 Defendant supports counsel's request for a trial continuance for the articulated  
2 reasons. ECF No. 110. Stephanie Van Marter, appearing on behalf of the  
3 Government, does not oppose the request. ECF No. 108 at 1. Co-Defendant Monica  
4 Pesina (01) is opposed to the request. ECF No. 108 at 1.

5 The Indictment was filed on November 6, 2019. ECF No. 6. Defense counsel  
6 Adam Pechtel appeared for Defendant Pesina (01) on November 8, 2019. ECF  
7 No. 32. Defense counsel Colin Prince appeared for Defendant Carter (02) on  
8 November 8, 2019. ECF No. 33. A Notice of Appearance was filed by Nicholas  
9 Marchi for Defendant Carter (02) on November 24, 2019. ECF No. 49. This is  
10 Defendant Carter's (02) third request for a continuance.

11 To ensure defense counsel is afforded adequate time to review discovery,  
12 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court  
13 grants the motion, extends the pretrial motion deadline, and resets the currently  
14 scheduled pretrial conference and trial dates. The Court finds that Defendant  
15 Carter's (02) continuance request is knowing, intelligent, and voluntary, and that  
16 the ends of justice served by granting a continuance outweigh the best interest of  
17 the public and Defendant in a speedy trial. The delay resulting from Defendant  
18 Carter's (02) motion is therefore excluded under the Speedy Trial Act.

19 Counsel are advised that all successive continuance requests will be closely  
20 scrutinized for the necessity of more time to effectively prepare, taking into account

1 the exercise of due diligence.

2 Having considered the parties' proposed case schedule and deadlines, the  
3 Court now enters the following Amended Case Management Order, which sets forth  
4 the deadlines, hearings, and requirements the parties will observe in this matter. To  
5 the extent this Order conflicts with any previously entered Orders in this matter, this  
6 Order shall govern. All counsel are expected to carefully read and abide by this  
7 Order and such provisions of the current CMO which have not been superseded  
8 hereby. The Court will grant relief from the requirements in this Order only upon  
9 motion and good cause shown.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 **1.** Defendant Carter's (02) Motion to Continue Trial Date and Pre-Trial  
12 Conference and Reset Deadlines, **ECF No. 108**, is **GRANTED**.

13 **2.** The Court finds, given defense counsel's need for time to review  
14 discovery, prepare any pretrial motions, conduct investigation, and  
15 prepare for trial, that failing to grant a continuance would result in a  
16 miscarriage of justice and would deny defense counsel the reasonable  
17 time necessary for effective preparation, taking into account the  
18 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The  
19 Court, therefore, finds the ends of justice served by granting a  
20 continuance in this matter outweigh the best interest of the public and

1 Defendant and Co-Defendant in a speedy trial. *See* 18 U.S.C.  
2 § 3161(h)(7)(A).

- 3 **3. Original CMO.** Counsel must review the provisions of the original  
4 November 12, 2019 CMO, ECF No. 41, and abide by those procedures  
5 which remain in full force and effect and are incorporated herein  
6 except for the new compliance deadlines in the following Summary of  
7 Amended Deadlines.

8 **4. Pretrial Conference**

9 A. The current pretrial conference date of July 2, 2020 is  
10 **STRICKEN** and **RESET** to **August 27, 2020 at 9:00 A.M.** in  
11 **RICHLAND**. At this hearing, the Court will hear **ALL** pretrial  
12 motions that are noted for oral argument.

13 **B.** All Pretrial Conferences are scheduled to last no more than  
14 **thirty (30) minutes**, with each side allotted **fifteen (15)**  
15 **minutes** to present their own motions and resist motions by  
16 opposing counsel. If any party anticipates requiring longer than  
17 fifteen minutes, that party must notify the Courtroom Deputy at  
18 least seven (7) days prior to the hearing. **Any party who fails**  
19 **to provide this notice will be limited to fifteen (15) minutes.**

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5. **Trial.** The current trial date of July 27, 2020 is **STRICKEN** and **RESET** to **September 28, 2020**, at **9:00 A.M.** in **RICHLAND**. The **final** pretrial conference will begin at **8:30 A.M.**

6. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court **DECLARES EXCLUDABLE** from Speedy Trial Act calculations the period from **June 14, 2020**, the date defense counsel moved to continue, through **September 28, 2020**, the new trial date, as the period of delay granted for adequate preparation by counsel.


7. **Summary of Deadlines**

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	<b>July 23, 2020</b>
<b>PRETRIAL CONFERENCE</b> <b><i>Deadline for motions to continue trial</i></b>	<b>August 27, 2020</b> <b>9:00 A.M. - RICHLAND</b>
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	<b>August 28, 2020</b>
Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	<b>August 14, 2020</b> <b>August 28, 2020</b> <b>August 14, 2020</b>
Exhibit lists filed and emailed to the Court	<b>September 4, 2020</b>
Witness lists filed and emailed to the Court	<b>September 4, 2020</b>
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	<b>September 4, 2020</b>
Exhibit binders delivered to all parties and to the Court	<b>September 18, 2020</b>
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	<b>September 18, 2020</b>
Trial notices filed with the Court	<b>September 18, 2020</b>

Technology readiness meeting (in-person)	September 18, 2020
<b>JURY TRIAL</b>	<b>September 28, 2020</b> <b>9:00 A.M. - RICHLAND</b>

**IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

**DATED** this 23<sup>rd</sup> day of June 2020.

  
SALVADOR MENDOZA, JR.  
United States District Judge